

**California Casualty Indemnity Exchange
1900 Alameda de las Pulgas San Mateo, CA 94403-1298**

NAIC COMPANY 20117

**MARKET CONDUCT EXAMINATION REPORT
as of December 31, 2002**

**COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

**PREPARED BY INDEPENDENT CONTRACTORS FOR
COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

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March 13, 2003

The Honorable Douglas Dean
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Dean:

In accordance with Sections 10-1-203, C.R.S. and 10-3-1106, C.R.S., an examination of selected underwriting and claims practices of the California Casualty Indemnity Exchange's private passenger automobile business has been conducted. The Company's records were examined at the Regional office located at 1650 Telstar Drive, Colorado Springs, CO, 80920-1004. The examination covered a twelve month period from January 1, 2002, to December 31, 2002.

A report of the examination of the California Casualty Indemnity Exchange is, herewith, respectfully submitted.

Gary L. Domer, CIE
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Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF
California Casualty Indemnity Exchange**

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COMPANY PROFILE

California Casualty Indemnity Exchange is a reciprocal inter-insurance exchange domiciled in California. The Exchange's attorney-in-fact is California Casualty Management Company (CCMC), a California corporation. The Company writes in 29 states. Its principal lines of business are auto liability, auto physical damage and homeowners multiple peril.

The Exchange commenced operations in Colorado on July 10, 1995, offering private passenger automobile liability and physical damage, homeowners multiple peril, and boat-owners coverage. Policies are marketed by direct mail and telephone sales to members of select groups. All telephone sales are made by CCMC employees who hold Colorado producer licenses. Claims are handled by CCMC employees and independent adjusters.

Underwriting emphases is on insuring preferred risk members of affinity groups, most of which are educator and public safety associations and credit unions. Management facilities, sales, underwriting and claim personnel, and the principal and branch offices are provided by CCMC. CCMC maintains Service Centers in Colorado Springs, CO, Phoenix, AZ and Leawood, KS.

In 2001 the Company had 8,694 private passenger automobile policies in force in Colorado.* The Company reported \$10,037,000 in private passenger automobile written premium in Colorado during 2001, representing a .40% market share of all private passenger automobile insurance written in Colorado during 2001.**

*Data as reported by the Company

**Data as reported in the Colorado Insurance Industry Statistical report

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law, Section 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report

The examination was governed by, and was performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered twelve months of the Company's operations, from January 1, 2002, to December 31, 2002.

File sampling was based on a review of underwriting files systematically selected from file runs provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any findings were noted on a comment form and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form the Company had the opportunity to respond and was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of the examination the Company was provided a summary of the findings.

The examination report is a report by exception and much of the material reviewed is not addressed in the written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following six (6) Company operations:

1. Company Operations and Management
2. Complaint Handling
3. Agents
4. Underwriting
5. Rating
6. Claims

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINATION REPORT SUMMARY

The examination resulted in five (5) issues arising from the Company's apparent failure to comply with Colorado statutes and regulations that govern all property and casualty insurers operating in Colorado. These issues involved four (4) of the six (6) categories of Company operations examined as follows:

Company Operations and Management: In the area of company operations and management one (1) compliance issue is addressed in this report. The issue arose from Colorado statutory and regulatory requirements that must be followed when the company files its annual report. It is recommended that the Company review its anti fraud efforts and reporting procedures and make the necessary changes to ensure future violation of applicable statutes and regulations as to each issue. The issue in this area is:

- Failure to file sufficient documentation of anti-fraud efforts in violation of Colorado insurance law.

Complaint Handling: In the area of complaint handling no compliance issues are addressed in this report.

Agents: In the area of agency operations no compliance issues are addressed in this report.

Underwriting: In the area of underwriting two (2) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements that must be complied with whenever policies are canceled, non-renewed or premiums increased or decreased. It is recommended that the Company review its underwriting practices and procedures and make the changes necessary to ensure future violation of applicable statutes and regulations as to each issue. The issues in this area are:

- Failure to offer a quarterly premium payment plan in violation of Colorado insurance law.
- Failure to clearly describe its underwriting rule when non-renewing policies in violation of Colorado insurance law.

Rating: In the area of rating one (1) compliance issue was addressed in this report. This issue arose from Colorado statutory and regulatory requirements that must be complied with whenever policies are issued, surcharged or premiums increased or decreased. It is recommended that the Company review its rating manuals, practices and procedures and make the changes necessary to ensure future violation of applicable statutes and regulations as to each issue. The issue in this area is:

- Failure to follow rating rules filed with the Division of Insurance in violation of Colorado insurance law.

Claims: In the area of claims one (1) compliance issue is addressed in this report. This issue arose from Colorado statutory and regulatory requirements dealing with the payment of claim benefits and the timeliness of claim payments. It is recommended that the Company review its claim handling procedures and make the necessary changes to ensure future violation of applicable statutes and regulations. The issue in this area is:

- Failure, in some cases, to timely pay PIP benefits in violation of Colorado insurance law.

CALIFORNIA CASUALTY INDEMNITY EXCHANGE

PERTINENT FACTUAL FINDINGS

PRIVATE PASSENGER AUTO

PERTINENT FACTUAL FINDINGS
OPERATIONS AND MANAGEMENT

Issue A: Failure to file sufficient documentation of anti-fraud efforts in violation of Colorado insurance law.

Section 10-1-127, C.R.S., Fraudulent insurance acts - immunity for furnishing information relating to suspected insurance fraud - legislative declaration provides, in part:

(6)(a) On and after January 1, 1997, every licensed insurance company doing business in Colorado shall prepare, implement, and maintain an insurance anti-fraud plan; except that this subsection (6) shall not apply to entities whose principal business is the assumption of reinsurance, reinsurance agreements, or reinsurance claims transactions. Insurance companies approved by the commissioner under article 5 of this title may be required, as a condition of such approval, to maintain an insurance anti-fraud plan. Each anti-fraud plan shall outline specific procedures, appropriate to the type of insurance provided by the insurance company in Colorado, to: ...

(c) Every licensed insurance company doing business in this state shall include as part of its annual report as required in section 10-3-109 a summary of its *anti-fraud efforts* (italics added) as described in paragraph (a) of this subsection (6).

Section 10-3-109, C.R.S., - Reports, statements, assessments, and maintenance of records - publication - penalties for late filing, late payment, or failure to maintain, provides, in part: ...

(1) Every insurance company doing business in this state, on or before the first day of March in each year, shall render to the commissioner a report, signed and sworn to by its chief officers, of its condition on the preceding thirty-first day of December, which shall include a detailed statement of assets and liabilities, the amount and character of its business transacted, and moneys received and expended during the year, and any further details of expenditures, and such other information, to be included in the report or supplementary thereto, which the commissioner deems necessary.

The Company failed to file sufficient documentation of anti-fraud efforts as part of its annual report, which may be a violation of Colorado insurance law.

Recommendation #1

Within 30 days the Company should demonstrate why it should not be considered to be in violation of Sections 10-1-127 and 10-3-109, C.R.S. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has corrected its practices and procedures and implemented a plan to ensure that sufficient documentation of Anti-Fraud efforts is filed with the annual report.

PERTINENT FACTUAL FINDINGS

UNDERWRITING

Issue B: Failure to offer a quarterly premium payment plan in violation of Colorado statutes.

Section 10-4-718, C.R.S., Quarterly premium payments, provides, in part:

The commissioner shall issue rules and regulations establishing quarterly, semiannual, and annual premium payments for persons who are required to purchase insurance under this part 7.

Colorado Insurance Regulation 5-2-3, Auto Accident Reparations Act (No-Fault) Rules and Regulations, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109, 10-4-704, 10-4-718, and 42-1-204, C.R.S. states, in part:

D. Installment Premium Payments

1. Each insurer continuing private passenger motor vehicle insurance coverage in conformity with the Colorado Automobile Reparations Act shall offer, for persons who are required to purchase insurance under Part 7 of Title 10, Article 4, C.R.S., a quarterly premium payment plan. An insurer, providing a plan for payments of premium on a basis that is more frequent than quarterly, need not also provide a quarterly payment plan.
2. Each insurer shall be required to file rules, methods or procedures to provide an installment premium payment plan.
3. An insurer's premium payment plan that is more frequent than quarterly may provide for payments of an advance deposit premium not greater than one month's premium.

The company's Automobile Underwriting Manual, Page 2CO.4 states:

B. Prior Cancellation, Non-Renewal or Declination ...

- 3) If California Casualty has canceled the applicant three or more times within a 36 –month period for non-payment of premium, *the new account is acceptable on Annual pay only*. If the pay plan was not EZ Pay when these cancellations occurred, the new account may be written on EZ Pay. (Italics added.)

Failure to offer a quarterly pay plan in appears to be a violation of Colorado insurance law.

Recommendation # 2:

Within 30 days, the Company should demonstrate why it should not be considered in violation of Section 10-4-718, C.R.S. and Colorado Insurance Regulation 5-2-3. In the event that the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has changed its policies and procedures and implemented a plan that will ensure that the company complies with Colorado insurance law when issuing insurance policies.

Issue C: Failure to clearly describe its underwriting rule when non-renewing policies in violation of Colorado insurance law.

Section 10-4-720, C.R.S., Cancellation-renewal-reclassification, states, in part:

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:

(c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).

Amended Regulation 5-2-3, Auto Accident Reparations Act (No-Fault) Rules And Regulations, promulgated by the Commissioner of Insurance under the authority of §§ 42-1-204, 10-4-704, 10-4-718, 10-4-719.7, and 10-1-109, C.R.S., states, in part: ...

E. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

2. Notice of proposed actions.

a. A proposal to cancel, nonrenew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such action in the notice required by §10-4-720 (2), C.R.S. Only one notice is required to be sent to the insured whose incident resulted in the proposed action. The statement of reasons shall be clear and specific so that a reasonable person can understand it. *The insurer shall clearly describe its underwriting rule, policy or guideline which is the basis for the proposed action* (italics added). A simple recitation of dates and incidents, without further detail, is not acceptable and may cause the insurer's proposed action to be disallowed.

The Company's **Automobile Underwriting Manual**, Page 2CO.3, Renewal Business Criteria, Standard Rate, states, in part:

Incidents: (in last 3 years. **Note:** at least one incident must have occurred in the past 15 months to be used for rate level change or non-renewal)

Maximum minor convictions in last 3 years

--Per Driver, ORG= 0-2----- 2

--Per Driver, ORG = 3-9-----2

--Per Driver, ORG= 10+-----3

Maximum chargeable accidents in last 3 years

--Per Driver, ORG= 0-2----- 1

--Per Driver, ORG= 3-9-----2

--Per Driver, ORG= 10+-----3

Policies Non-Renewed

Population	Sample Size	Number of Exceptions	Percentage to Sample
92	50	10	20%

An examination of 50 systematically selected files, representing 54% of all policies non-renewed by the Company in Colorado during the examination period, showed ten (10) exceptions (20% of the sample) wherein the Company failed to clearly describe its underwriting rule when non-renewing policies.

Ten (10) exceptions resulted because non-renewal notices incorrectly stated the Company's underwriting rule to be:

(Name) has, in the past 36 months, exceeded our limit of two traffic incidents for a customer with *less than 5 years experience with the company* (italics added).

The rule, correctly stated, is:

(Name) has, in the past 36 months, exceeded our limit of two traffic incidents for a customer with *less than 2 years experience with the company* (italics added).

Failure to correctly state the Company's underwriting rule when non-renewing policies of insurance may be a violation of the above cited Colorado insurance law.

Recommendation # 3:

Within 30 days, the Company should demonstrate why it should not be considered in violation of Section 10-4-720, C.R.S. and Colorado Insurance Regulation 5-2-3. In the event that the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has changed its policies and procedures and implemented a plan that will ensure that the company complies with Colorado insurance law when non-renewing policies.

PERTINENT FACTUAL FINDINGS

RATING

Issue D: Failure to follow rating rules filed with the Division of Insurance in violation of Colorado insurance law.

Section 10-3-1104(1)(f)(II) C.R.S., Unfair methods of competition and unfair or deceptive acts or practices prohibited, defines unfair discrimination as:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Section 10-4-401(3)(b), C.R.S., Purpose-applicability, provides, in part:

Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner; ...

Colorado Insurance Regulation 5-1-10, Section 5(C)(2), Rate And Rule Filing Submissions Property And Casualty Insurance, promulgated pursuant to the authority of Sections 10-1-109, 10-3-1110, 10-4-404, and 10-4-404.5, C.R.S. states:

Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the forgoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

The Company's **Automobile Underwriting Manual**, Rev.2 (12/01/99), Rating Procedures, Rating, CO, Page 3CO.15, states, in part:

Driving record attribute points are assigned for chargeable accidents, major convictions and SR-22 filings. ... The points for each of these types of driving record activity are determined as follows: ...

1) Chargeable Accidents ...

b. On renewals the first chargeable accident is not given an attribute point. The second chargeable accident that occurred with [sic] the 15 month period immediately preceding the renewal effective date is assigned 2 attribute points. ...

2) Minor Convictions (New Accounts only, when the vehicle is in Standard rate)

- a. One attribute point is assigned for each minor conviction that occurred within the 36 month period immediately preceding the new account effective date.

Policies Surcharged			
Population	Sample Size	Number of Exceptions	Percentage to Sample
439	50	4	8%

An examination of 50 systematically selected files, representing 11% of all policies surcharged by the Company in Colorado during the examination period, showed four (4) exceptions (8% of the sample) wherein the Company wrongly surcharged policies.

Two (2) exceptions resulted because the company failed to remove surcharges when renewing policies (reference rule 1 above).

Two (2) exceptions resulted because a minor violation was surcharged on a policy rated at the Gold Star level. Minor violations are not surcharged on policies rated at the Gold Star level for new accounts (reference rule 2 above).

Failure to follow a filed rate/rule plan may be a violation of Colorado insurance law.

Recommendation # 4:

Within 30 days, the Company should demonstrate why it should not be considered in violation of Sections 10-3-1104 and 10-4-401, C.R.S and Colorado Insurance Regulation 5-1-10. In the event that the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has changed its policies and procedures and implemented a plan that will ensure that the company complies with Colorado insurance law when surcharging policies.

PERTINENT FACTUAL FINDINGS

CLAIMS PRACTICES

Issue E: Failure, in some cases, to timely pay PIP benefits in violation of Colorado insurance law.

Section 10-3-1104(1)(h), C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, defines, in part, as an unfair business practice: ...

(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies: or

(III) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

Section 10-4-708(1), C.R.S., Prompt payment of direct benefits, provides, in part: ...

Payment of benefits under the coverages enumerated in section 10-4-706 (1)(b) to (1)(e) or alternatively, as applicable, section 10-4-706(2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. In the event that the insurer fails to pay such benefits when due, the person entitled to such benefits may bring an action in contract to recover the same.

Colorado Insurance Regulation 5-2-8, Timely payment of Personal Injury Protection benefits, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109, 10-4-704, 10-4-708(1.3) and 10-3-1110(1), C.R.S., effective November 1, 1997, amended September 1, 2000, provides, in part: ...

B. Prompt Payment of PIP Benefits

Section 10-4-708(1), C.R.S., provides that benefits under the coverages enumerated in Section 10-4-706, C.R.S., are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

Section 10-4-708(1), C.R.S., allows for the accumulation of claims expense for periods not exceeding one month and provides that benefits are not overdue if paid within 15 days after the end of a defined period of accumulation. An insurer is permitted by this statute to pay a bill within 15 days after the end of a defined accumulation period only when there is a reasonable likelihood that multiple providers are involved and more than one bill is received during the accumulation period.

C. Requirements Establishing Proof of the Fact and Amount of Expenses Incurred

1. Medical and Rehabilitative PIP benefits

In the usual case, for purposes of triggering the 30-day time period described in Section 10-4-708(1), C.R.S., the following documents are sufficient to establish reasonable proof of the fact and amount of the expenses incurred for covered medical and rehabilitative PIP benefits:

- a. A properly executed application for benefits from the PIP claimant; and
- b. An initial notice to the insurer from the provider of benefits which meets the requirements of Section 10-4-708.5, C.R.S. or a billing statement for the procedure or treatment which complies with Section 10-4-708.6, C.R.S., and includes pursuant to Section 10-4-708.5 the following:
 - (1) The name and address of the treating health care provider;
 - (2) The evaluation of diagnosis, and the medical procedure performed or the medical treatment provided; and
 - (3) An itemized statement of charges corresponding to the medical service or treatment provided along with corresponding dates of service.

PIP Checks/Drafts Paid

Population	Sample Size	Number of Exceptions	Percentage to Sample
3672	50	6	12%

An examination of 50 systematically selected drafts/checks, representing 1% of all PIP drafts/checks issued by the Company during the examination period, showed six (6) exceptions (12% of the sample) wherein the Company failed to pay PIP benefits within the statutory standard of 30 days.

PIP Paid Claims

Population	Sample Size	Number of Exceptions	Percentage to Sample
385	50	9	18%

An examination of 50 systematically selected PIP claim files, representing 13% of all PIP claims paid by the Company during the examination period, showed nine (9) exceptions (18% of the sample) wherein the Company failed to pay PIP benefits within the statutory standard of 30 days.

Failure to pay PIP benefits within the statutory standard of 30 days may be a violation of Colorado insurance law.

Recommendation #5:

Within 30 days the Company should provide documentation demonstrating why it should not be considered to be in violation of Sections 10-3-1104 and 10-4-708, C.R.S. and Colorado Insurance Regulation 5-2-8. If the Company is unable to provide such documentation, the Company should be required to provide evidence to the Division of Insurance demonstrating that it has reviewed all procedures related to the timeliness of claims handling and the documentation of claim files and has implemented all necessary changes to ensure compliance with Colorado insurance law.

Summary of Recommendations

California Casualty Indemnity Exchange Examination Report

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Participated in this examination and in the preparation of this report